

# EXHIBIT A

## COVINGTON

BEIJING BOSTON BRUSSELS DUBAI FRANKFURT  
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July 24, 2024

DELIVERED VIA PROCESS SERVER

Arizona Department of Child Safety  
Phoenix Corporate Center  
3003 N. Central Avenue  
Phoenix, AZ 85012

Re: People of the State of California v. Meta Platforms, Inc., 4:23-cv-05448

Dear Sir/Madam:

Enclosed please find a subpoena being served upon you in connection with the above-captioned litigation currently pending in the U.S. District Court for the Northern District of California. I represent Defendants Meta Platforms, Inc.; Instagram, LLC, Meta Payments, Inc. and Meta Platforms Technologies, LLC (collectively, the “Meta Defendants”) in this matter.

The document subpoena requests the production of specific documents identified in the attached subpoena (see Attachment A to the subpoena), which are requested to be produced by 10:00 a.m. on August 23, 2024. We are willing to work with you on the time, date, location, method and manner of document production, as well as answer any questions or concerns you may have regarding subpoena compliance. It is sufficient compliance with this subpoena if you electronically transmit a copy of the requested documents to the undersigned. As such, please contact me at [kpatchen@cov.com](mailto:kpatchen@cov.com) and 415-591-6031, to discuss document production and subpoena compliance, unless you are already represented by counsel in connection with this matter.

The Court is currently considering whether the Arizona Attorney General’s Office has control over Arizona Department of Child Safety’s information for the purposes of discovery in this action. If the Court rules that the Arizona Attorney General’s Office has control over the Arizona Department of Child Safety’s information, the Arizona Attorney General has pending discovery requests that seek this agency’s documents. By serving this subpoena, Meta does not waive its position in the state agency dispute, nor does Meta in any way waive rights to compel the Arizona Attorney General to produce Arizona Department of Child Safety information as part of discovery in this action. However, to avoid further delay in the production of information from the Arizona Department of Child Safety, Meta is serving the attached subpoena to request the timely production of this information.

Your anticipated time and assistance with this matter is greatly appreciated.

**COVINGTON**

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Best regards,

*/s/ Kate Patchen*

Kate Patchen

Enclosed: Subpoena, Attachment A, and Attachment B

## UNITED STATES DISTRICT COURT

for the

Northern District of California

IN RE: SOCIAL MEDIA ADOLESCENT ADDICTION/PERSONAL  
INJURY PRODUCTS LIABILITY LITIGATION )

THIS DOCUMENT RELATES TO: )

People of the State of California, et al. v. Meta Platforms, )

Inc. et al., Case No.: 4:23-cv-05448 )

Civil Action No. 4:22-MD-03047-YGR

MDL No. 3047

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTIONTo: Arizona Department of Child Safety  
Phoenix Corporate Center, 3003 N. Central Ave., Phoenix, AZ 85012

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A.

Place: Bartelt/Nix Reporting Services  
3101 North Central Avenue, Suite 290  
Phoenix, AZ 85012Date and Time:  
August 23, 2024, 10:00 a.m.

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 07/24/2024

CLERK OF COURT

OR

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk

/s/ Ashley Simonsen

\_\_\_\_\_  
Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) \_\_\_\_\_  
Meta Platforms, Inc. f/k/a Facebook, Inc.; Instagram, LLC, Meta Payments, Inc. and  
Meta Platforms Technologies, LLC, \_\_\_\_\_ who issues or requests this subpoena, are:  
Ashley Simonsen, Covington & Burling LLP, 1999 Avenue of the Stars, Los Angeles, CA 90067, 424-332-4782, asimonsen@cov.com

## Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:23-cv-05448

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_ .

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
 tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
 \$ \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
 \_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

Print

Save As...

Add Attachment

Reset

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**DEFINITIONS AND INSTRUCTIONS TO ATTACHMENT A**

**DEFINITIONS**

1. The term “communication” means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).
2. “Document” or “documents” shall have the broadest meaning ascribed to it by the Federal Rules of Civil Procedure, and includes, without limitation electronically stored information (“ESI”) (including, without limitation, electronic databases and the data therein, all electronic messages or communications, electronic word processing documents, electronically stored voicemail, webpages, and social media posts) in accordance with any order in this case governing ESI at the time of production. Different versions of the same documents, including, but not limited to, drafts or documents with handwritten notations or marks not found in the original or on other copies are different documents.
3. “You”, “you”, “Your” and “your” means the Arizona Department of Child Safety.
4. “Relating” or “related to” means and includes referring to, concerning, referencing, mentioning, associated with, constituting, discussing, containing, embodying, recording, reflecting, identifying, summarizing, incorporating, and/or dealing with or pertaining to in any way.
5. “And” includes “or”, and vice versa.
6. The singular form of a word or term includes the plural, and vice versa.
7. The present tense of a verb includes the past tense, and vice versa.
8. The use of the article “the” shall not be construed as limiting the scope of any request.
9. “Including” means “including without limitation.”

10. “Any” includes “all”, and vice versa.

11. The capitalized version of a word or term includes the lower case version of a word or term, and vice versa.

12. “Social Media Platforms” or “Platforms” means a digital service that facilitates interactions between two or more distinct but interdependent sets of users, including but not limited to Facebook, Instagram, Snapchat, TikTok, YouTube, Twitter (or “X”), Pinterest, LinkedIn, BeReal, Lapse, Reddit, Threads, VSCO, Goodreads, Quora, Discord, Twitch, and Tumblr.

13. “Young Users” means users of Social Platforms who are under 18 years of age when using the Platform(s).

All words, terms, and phrases not specifically defined herein are to be given their normal and customary meaning in the context in which they are used in these Requests.

### **INSTRUCTIONS**

1. These Requests are intended to cover any and all documents in your possession, custody, or control, to the extent not privileged. Documents held by any office, department, board, commission, or instrumentality of the Arizona Department of Child Safety are within your possession, custody, or control.

2. In accordance with ESI Protocol attached hereto as Attachment B, if you object to furnishing any of the documents or information requested by these Requests on the grounds of attorney-client privilege, work product, other privilege, or otherwise then, with respect to each such document:

- a. state the nature of the privilege claimed;
- b. state the date of each communication supporting the privilege claim;
- c. identify all participants in the supporting communication;
- d. state the specific grounds on which the objection is based; and



e. identify the specific request calling for such information;

2. If you object to any Request on the grounds that it is vague or ambiguous, state: (i) the portions or terms of such Request that you claim to be vague or ambiguous; and (ii) the interpretation of the Request pursuant to which you provide a response.

3. Each request shall be deemed continuing, so as to require supplemental or mandatory responses should you obtain additional responsive information subsequent to your initial responses.

4. If you cannot fully respond to a particular Request after exercising due diligence to make inquiry and to secure the necessary information, provide a response to the extent possible, specifying your inability to respond to the remainder and providing whatever information or knowledge you have concerning the portion not responded to.

5. Each page of a produced document shall have a legible, unique page identifier (“Bates Number”) and confidentiality legend (where applicable) on the face of the image at a location that does not obliterate, conceal, or interfere with any information from the source document. Redactions should be clearly marked or stamped on the page in such a way that it is clear from review that a portion of the image has been redacted.

6. All responsive and non-privileged electronic documents shall be produced in the format ordered by the Court in its ESI order.

7. All responsive electronic documents shall be produced in a format agreed upon by the parties, to include at least native versions of Excel spreadsheets and presentation files, with a Bates-stamped placeholder image.

8. Unless otherwise specified, the time period for these Requests is January 1, 2012 to the date of production of the Documents.

**ATTACHMENT A**

1. Research, investigations, studies, surveys, reports, evaluations, or analyses concerning the mental, social, emotional, or behavioral health of persons ages 13 to 18.
2. Research, investigations, studies, surveys, reports, evaluations, or analyses related to Social Media Platforms, including the importance of Social Media Platforms and the use of Social Media Platforms by Young Users and the potential benefits and harms created by the use of Social Media Platforms.
3. Research, investigations, studies, surveys, reports, evaluations, or analyses concerning the mental, social, emotional, or behavioral health of Young Users, including those related to the effects of:
  - a. Social Media Platforms usage;
  - b. Video games usage;
  - c. Cell phone usage;
  - d. Messaging usage;
  - e. Usage of other electronics apart from usage of Social Media Platforms;
  - f. COVID-19 and/or remote learning;
  - g. Use of drugs or alcohol;
  - h. The opioid and fentanyl epidemic;
  - i. Poverty, homelessness, lack of health insurance, and/or food insecurity;
  - j. Physical health including nutrition, exercise, weight management, sleeping habits, and sexual activity;
  - k. Family trauma or deaths;
  - l. Academic pressure;
  - m. Violence, including school violence, domestic violence, gun violence, gun control and/or mass shootings;
  - n. Bullying or verbal abuse apart from usage of Social Media Platforms;
  - o. Political polarization;
  - p. Natural disasters;
  - q. Climate change;
  - r. Discrimination and inequity;
  - s. Global warfare and conflict; and
  - t. Any other potential causes of harms to the mental, social, emotional, or behavioral health of Young Users.
4. Youth Risk Behavior Surveys conducted by the Arizona Department of Child Safety or on its behalf.
5. Research, investigations, studies, surveys, reports, evaluations, or analyses related to:
  - a. Features of Social Media Platforms that are psychologically or physically harmful to Young Users;
  - b. Features of Social Media Platforms that promote compulsive, prolonged, or unhealthy use by Young Users;
  - c. The impact of features of Social Media Platforms, including:

- (1) Algorithmic recommendation and sequencing;
  - (2) Image filters;
  - (3) Use of multiple user accounts;
  - (4) Infinite scroll;
  - (5) Ephemeral content features;
  - (6) Autoplay;
  - (7) Quantification and display of likes; or
  - (8) Audiovisual and haptic alerts.
6. Programs, initiatives, efforts, or actions proposed or taken by the Arizona Department of Child Safety to address Young Users' use of Social Media Platforms, including any program, initiative, effort, or action to prevent, limit, encourage, or promote the use of Social Media Platforms by Young Users.
7. Policies proposed, recommended, or enacted by the Arizona Department of Child Safety regarding screen time and acceptable use of cell phones, computers, tablets, or other electronic devices by Young Users.
8. Complaints to the Arizona Department of Child Safety by teachers or school districts regarding social media or cell phone use by Young Users and/or the need for acceptable use or other policies to address Young Users' use of social media or cell phones.
9. Complaints to the Arizona Department of Child Safety by teachers or school districts regarding budget crises from inflation, underfunding, unfunded mandates, and other causes.
10. Documents related to state assessments in Arizona, including reports and analyses regarding the history of K-12 state assessment or standardized testing scores, performance by schools and/or school districts, and any other measures of school performance.
11. Legislation or policies proposed by, proposed on behalf of, or testified on by the Arizona Department of Child Safety, regardless of whether such legislation or policies were enacted, regarding Young Users' use of Social Media Platforms.
12. Mental, social, emotional, or behavioral health services provided by the Arizona Department of Child Safety to Young Users during the Relevant Period, including:
  - a. Counseling or therapy;
  - b. Psychiatric services;
  - c. Crisis intervention;
  - d. Inpatient short-term and long-term programs;
  - e. Resource centers; and
  - f. Services for Young Users dealing with substance abuse or addiction issues.
13. Any and all Arizona Department of Child Safety grants to address Young Users' mental health, including information about when, where, why, and how any disbursements were

paid, any schedules or plans for future disbursements, policies governing evaluation or approval of such disbursements, records of how the disbursements were used, and all agendas, minutes, notes, or recordings from meetings related to such grant.

14. Public or non-public meetings held by the Arizona Department of Child Safety related to Social Media Platforms and use of Social Media Platforms by Young Users, including but not limited to, notices, meeting notes, PowerPoint presentations, internal memoranda, summaries, personal notes, or attendee lists.
15. Policies, procedures, and practices related to the Arizona Department of Child Safety's use of Social Media Platforms, including communication of information or promotion of Arizona Department of Child Safety's programs, initiatives, efforts, or actions on Social Media Platforms.
16. Arizona Department of Child Safety's communications and/or collaboration with any Social Media Platform on any program, initiative or other action related to, or directed at, Young Users.
17. Arizona Department of Child Safety's communications with any third party related to Young Users and/or Social Media Platforms.
18. Budgeted and actual expenditures by the Arizona Department of Child Safety during the Relevant Period related to Young Users' use of Social Media Platforms.
19. Budgeted and actual expenditures by the Arizona Department of Child Safety during the Relevant Period related to treatment of teen mental, social, emotional, or behavioral health issues.
20. Policies, procedures, and practices applicable to the Arizona Department of Child Safety and Arizona Department of Child Safety employees regarding the use of Social Media Platforms, including any changes to these policies during the Relevant Period.
21. Studies, programs, initiatives, efforts, or actions proposed or taken by the Arizona Department of Child Safety that sought to provide or promote internet access or phones, computers, tablets, or other electronic devices to Young Users.
22. Arizona Department of Child Safety's budget and actual expenditures during the Relevant Period, including expenditures on:
  - a. Digital advertisements by the Arizona Department of Child Safety on Social Media Platforms;
  - b. Digital advertisements by the Arizona Department of Child Safety purchased through Social Media Platforms.

**ATTACHMENT B**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

IN RE: *Social Media Adolescent  
Addiction/Personal Injury Products Liability  
Litigation*

This document relates to:  
ALL ACTIONS

MDL No. 3047  
Case No. 4:22-md-03047-YGR

Honorable Yvonne Gonzalez Rogers  
Honorable Peter H. Kang

**STIPULATION AND ~~PROPOSED~~  
ORDER GOVERNING THE  
PRODUCTION OF  
ELECTRONICALLY STORED  
INFORMATION AND HARD COPY  
DOCUMENTS**

**1. PURPOSE**

This Order Governing the Production of Electronically Stored Information and Hard Copy Documents (“ESI Order”) will govern discovery of electronically stored information and any hard copy documents in this Litigation as a supplement to the Federal Rules of Civil Procedure, this District’s Guidelines for the Discovery of Electronically Stored Information, and any other applicable orders and rules. “This Litigation” includes all actions currently in MDL No. 3047, *In Re: Social Media Adolescent Addiction/Personal Injury Products Liability*, or hereafter added or transferred to MDL No. 3047, and all actions later remanded to their respective transferor courts.

**2. DEFINITIONS**

- a) “Document” is defined to be synonymous in meaning and equal in scope to the usage of this term in Rules 26 and 34 of the Federal Rules of Civil Procedure and shall include Hard-Copy Documents and ESI.

b) “Electronically stored information” or “ESI,” as used herein has the same meaning as in Federal Rules of Civil Procedure 26 and 34.

c) “Hard-Copy Document” means Documents existing in paper form at the time of collection.

d) “Searchable Text” means the native text extracted from an Electronic Document and any Optical Character Recognition text (“OCR text”) generated from a Hard-Copy Document or electronic image.

### **3. COOPERATION**

The Parties are aware of the importance the Court places on cooperation and commit to cooperate in good faith throughout this Litigation consistent with this Court’s Guidelines for the Discovery of ESI and this Court’s Rules of Professional Conduct. The Parties will endeavor to cooperate in good faith and be reasonably transparent in all aspects of the discovery process.

### **4. LIAISON**

The Parties will identify Discovery Liaisons to each other who are and will be knowledgeable about and responsible for discussing their respective ESI. Any Party is free to change their designated Discovery Liaison by providing written notice to the other Parties. Each Party’s Discovery Liaison must: (a) be prepared to meet and confer on discovery-related matters and to participate in discovery dispute resolution; (b) be knowledgeable about the Party’s discovery efforts; (c) be, or have reasonable access to those who are, familiar with the Party’s electronic systems and capabilities in order to explain those systems and answer relevant questions; and (d) be, or have reasonable access to those who are knowledgeable about the technical aspects of discovery, including electronic document storage, organization, and format issues, and relevant information retrieval technology, including search methodology.

### **5. IDENTIFICATION OF CUSTODIANS AND DATA SOURCES**

The parties will disclose information about custodians and custodial and non-custodial data sources likely to possess relevant or responsive information in accordance with Fed. R. Civ. P. 26 and this District’s ESI Guidelines. The Parties will participate in Rule 26(f) discussions guided by this District’s Checklist for Rule 26(f) Meet and Confer Regarding Electronically

1 Stored Information. After responses to Requests for Production under Fed. R. Civ. P. 34 have  
2 been served, the parties will meet and confer regarding those custodians and custodial and non-  
3 custodial data sources from which Documents and ESI will be collected for search and review for  
4 potential production in this litigation. The custodian and data source exchanges will include brief  
5 explanations of the rationale for their selections; for example, for custodians, their current job  
6 titles and descriptions of their work, and for data sources, location information and description.

#### 7 **6. INACCESSIBLE OR UNUSABLE ESI**

8 If a Producing Party asserts that certain requested ESI is inaccessible or not “reasonably  
9 accessible,” otherwise unnecessary, or if the Receiving Party asserts that, following production,  
10 certain ESI is not reasonably useable, the parties shall meet and confer to discuss resolving such  
11 assertions. The parties will exchange sufficient information to enable the parties to confer in good  
12 faith. If the parties cannot resolve any such disputes after such a meet and confer has taken place,  
13 the issue shall be presented to the Court for resolution.

#### 14 **7. KNOWN RESPONSIVE DOCUMENTS**

15 Documents or ESI identified in a custodial or non-custodial file, or in a discrete folder or  
16 collection, that are known to a Producing Party through reasonable investigation to be responsive  
17 to a discovery request shall be collected for review without regard to whether the responsive  
18 content was located via any search methodology developed in accordance with this Order, and  
19 nothing about such review shall prevent the Producing Party from redacting or withholding and  
20 logging such documents for applicable privileges.

#### 21 **8. SEARCH METHODOLOGIES**

22 The Parties shall adopt reasonable and proportionate methodologies to identify, search,  
23 collect, cull, review, and produce ESI as required under applicable legal standards. The Parties  
24 recognize and agree that each Party may use one or more methodologies to identify, search,  
25 collect, cull, review, and produce responsive and non-privileged ESI, including the use of  
26 keyword search terms and/or the use of technology assisted review (“TAR”) as discussed further  
27 herein. The Parties further recognize that different data sets may implicate different  
28 methodologies to identify, search, collect, cull, review, and produce responsive and non-



1 privileged ESI. The Parties therefore agree to meet and confer in good faith regarding any  
2 potential disputes over their respective ESI productions.

### 3 **9. HIT REPORTS AND SEARCH TERMS**

4 If a Producing Party uses search terms to identify, search, or cull potentially responsive  
5 ESI, the Producing Party shall disclose the search terms to the Requesting Party. The Parties shall  
6 meet and confer regarding any disputes over the disclosed search terms. In the event that a  
7 Producing Party claims burden with respect to modified and/or additional search terms proposed  
8 by a Requesting Party, the Producing Party shall provide a hit report for the terms at issue using  
9 industry-standard processing tools, such as NUIX or other similar tools. The Producing Party  
10 shall provide a hit report for the document collection where the terms were applied, including the  
11 following with respect to each proposed or modified search term in the collection:

- 12 a) The number of documents with hits for that term; and
- 13 b) The number of unique documents, i.e., documents which do not have hits for any other  
14 term.

15 If, after reviewing a hit report from a Producing Party, a Requesting Party so chooses, it  
16 may reasonably request a further hit report which includes:

- 17 c) The number of family members, including the documents with hits, of the documents  
18 with hits for that term; and
- 19 d) The number of unique family members of the documents with hits for that term.

20 If the ESI tool for the Producing Party is capable without undue burden of providing the  
21 number of family members and unique family members, then the Producing Party shall provide  
22 such further hit report. The Parties (including the person most knowledgeable about the  
23 capabilities of the Producing Party's ESI tool and the Requesting Party's person most  
24 knowledgeable about technical issues from its ESI service provider) shall meet and confer  
25 regarding any disputes over whether the Producing Party's ESI tool has the capability or not to  
26 provider either number of family members or number of unique family members.

27 The Parties shall meet and confer to resolve disagreements over the search terms or their  
28 application. To the extent the Parties are unable to reach agreement on the application of, or

1 procedures for, any search or filtering processes, the Parties shall fully comply with the  
2 provisions of this Court's Discovery Standing Order regarding the procedure for raising discovery  
3 disputes with the Court, including the meet and confer and certification requirements therein.

#### 4 **10. TECHNOLOGY ASSISTED REVIEW (TAR)**

5 A Producing Party may use TAR (technology-assisted review) during the culling and  
6 review process of ESI, which may be applied in addition to search terms. If a Producing Party  
7 uses TAR to cull, filter out, or exclude documents from that Party's production, that Producing  
8 Party shall do the following:

- 9 • If a Producing Party chooses to apply both search terms and TAR to a review set,  
10 the Producing Party will disclose the search terms to all other Party/Parties.
- 11 • Disclose the name of the TAR tool or service used to all other Party/Parties.

#### 12 **11. VALIDATION**

13 Each Producing Party shall take reasonable steps to validate its review process (i.e., using  
14 quality control measures to determine whether its production is missing relevant ESI or contains  
15 substantial amounts of irrelevant ESI) and make any necessary adjustments or corrections to its  
16 process. If, after reviewing a Producing Party's production, a Requesting Party reasonably  
17 requests additional information regarding the validation method(s) used by the Producing Party,  
18 the Producing Party will disclose the level of end-to-end recall (the percentage of responsive  
19 Documents in the collection which were identified as responsive by that Producing Party's  
20 methodology). If there remain disputes between the Parties regarding validation, the Parties shall  
21 meet and confer to resolve such disputes in good faith, including a reasonable discussion  
22 regarding the tool used and the parameters used to obtain or calculate the level of recall.

#### 23 **12. UNSEARCHABLE DOCUMENTS**

24 The Producing Party shall use reasonable efforts to identify and review potentially  
25 responsive documents for which text-based search technologies are fundamentally ineffective.

#### 26 **13. SYSTEM FILES**

27 Each Party will use its best efforts to filter out common system files and application  
28 executable files using the national software reference library ("NSRL") NIST hash set list. The

Parties also may filter out stand-alone files identified as zero bytes in size. Additional culling of file types based on file header information may be applied to the following, provided these files are not known to be otherwise attached, embedded in, or included with an otherwise responsive document, or are not themselves reasonably known to contain information responsive or contain responsive data or are used to interface with users or interact with or access individual or aggregated user data: Application Package File, Backup Files, Batch Files, Binary Disc Image, C++ File Formats, Cascading Style Sheet, Configuration File, Database File, Dictionary Files, Dynamic Link Library, Event Log Files, Executable Files, Hypertext Cascading Stylesheet, Java Archive Files, JavaScript Files, JavaScript Source Code and Class Files, Macintosh Resource Fork Files, Package Manager Files, Program Files, Program Installers, Python Script Files, Shell Script Files, System or Temporary Files, Thumbnail Cache Files, Troff Files, Truetype Font Files, Windows Cabinet File, Windows Command Files, Windows File Shortcut, Windows Help Files, Windows Metafiles and Enhanced Metafiles, Windows Spool Files, Windows System File.

#### **14. DEDUPLICATION**

Each Producing Party shall make reasonable efforts to globally deduplicate exact duplicate Documents within that Producing Party's ESI data set across all custodial and non-custodial sources at the family level using either MD5 hash values or SHA hash values or any other agreed-upon (and disclosed) industry-standard deduplication technology. The Parties shall reach agreement on such other deduplication technology and shall reach agreement on how their deduplication tools shall identify exact duplicates of documents in a manner that is consistent with the disclosed tools and technologies a Producing Party is using. The Parties shall reach agreement on how to identify exact duplicates of emails using industry-standard commercially available software tools or services, which may for example calculate hash values of emails based on concatenated values of agreed-upon email fields and/or hash values of attachments, or which may use any other method the Parties agree upon. Having further met and conferred in keeping with the previous sentence, the Parties shall calculate deduplication hash values for emails on the concatenated values set forth in and in accordance with the documentation specifications of the disclosed deduplication tools to be used in this Litigation (i.e., RelativityOne, Relativity Server,

1 and Nuix); however, if Nuix is used, the Producing Party shall select the optional field “Include  
2 Bcc” as an additional field to add to the default ones.

3 The Parties shall not withhold from production near-duplicates without meeting and  
4 conferring on this issue.

5 The names of all custodians who were either identified as custodians for purposes of  
6 collection for this matter (or otherwise known by the Producing Party to have been in possession  
7 or custody of a document prior to deduplication) will be populated in the ALL CUSTODIANS  
8 metadata field for the produced version of a document that has duplicates removed from  
9 production. The original file paths (if any exist) of a document prior to deduplication will be  
10 populated in the ALL FILE PATHS metadata field of the produced document.

## 11 **15. EMAIL THREADING**

12 The Parties may use analytics technology to identify email threads and shall produce the  
13 unique most inclusive copy and related family members. Where multiple email messages are part  
14 of a single chain or “thread,” a Party is only required to produce the most inclusive copy of an  
15 email message(s) (“Last In Time Email(s)”) and need not produce earlier, lesser inclusive email  
16 messages or “thread members,” provided that the tool or software service being used to perform  
17 threading is disclosed. A Producing Party may exclude from production lesser inclusive copies of  
18 the most inclusive email message in the thread, where the entire body of each of those lesser  
19 inclusive copies is included within the Last in Time Email. The Producing Party will honor  
20 reasonable requests to produce lesser inclusive copies of a Last In Time Email or other earlier  
21 chains of emails otherwise excluded by email thread suppression.

22 The Parties shall treat new or different email chains or threads pursuant to further  
23 agreement on safeguards or guidelines for defining emails threads which reasonably take into  
24 account the capabilities of the email threading/dethreading/hyperthreading tools used by each  
25 Defendant (which shall be disclosed to Plaintiffs).

## 26 **16. SOURCE CODE**

27 The Parties will meet and confer to address the production and/or inspection of source  
28 code and entering into a separate order governing the same if needed.

## 17. PRODUCTION FORMATS

The Parties agree to produce documents and data in the formats described in **Appendix 1** to this ESI Order. If particular documents or categories of documents identified in response to document requests warrant a different format, the Parties will cooperate to arrange for the mutually acceptable production of such documents. The Parties further agree not to degrade the searchability of documents as part of the document production process.

In addition, the Parties agree that the production and production format of social media and/or user account information is not covered by this agreement and to meet and confer on the production and production format, including metadata, for social media and/or user account information.

## 18. PHASING

Once the Parties begin propounding discovery requests pursuant to Fed. R. Civ. P. 34, the Parties agree to meet and confer regarding appropriate phasing for the production of ESI.

## 19. MISCELLANEOUS PROVISIONS

- a) **Production of Plaintiffs ESI and Case-Specific Materials.** Subject to any further agreement among the Parties or Order of the Court, the Parties shall produce case-specific documents (i.e., documents specific to the claim of a given Plaintiff, produced by Plaintiffs or Defendants) for any Plaintiff in discovery pools or other selections designed to inform bellwether selection, including those selected for a bellwether trial, in accordance with the production format specified herein, provided, however, that the Producing Party may elect to produce such materials in their native format. To the extent production of case-specific documents for any Plaintiff selected for a bellwether trial presents an issue for any Party, the Parties shall reasonably confer, and may present any disputes to the Court or its designee. The Parties shall further agree to confer concerning the production format and associated matters (*e.g.*, hosting platform) for case-specific documents produced in the cases of other Plaintiffs.

Nothing herein shall limit Defendant's right to seek discovery from any Plaintiff.

- b) **Translations Of Produced Materials.** The Producing Party has no obligation to

create a translation of the Documents or any portion thereof. For any foreign-language documents responsive to document requests that a Party reasonably knows as the result of a reasonable investigation have been translated into the English language using human translators or through machine translation for its own purposes, except to the extent such translation is protected by attorney-client or work-product privileges, the Producing Party shall produce the translation of the original document with the original. The parties will meet and confer as necessary concerning procedures for using translations at depositions and at trial. In the event the Parties cannot reach agreement, the matter may be submitted to the Court for determination.

c) **Third-Party Documents.** A Party that issues a Non-Party subpoena (“Issuing Party”) shall include a copy of this Order with the subpoena and state that (1) the subpoenaed Non-Party should produce Documents in response to the subpoena to all Parties; and (2) the Parties to this Litigation have requested that Third Parties produce Documents in accordance with the specifications set forth herein. If the subpoenaed Non-Party produces Documents to the Issuing Party but does not produce those Documents to other Parties, the Issuing Party shall produce such Documents to those other Parties within 14 days of receiving the Documents, except where the Documents are to be used in a deposition, in which case the Issuing Party shall produce such Documents to all other Parties no later than three (3) days prior to the deposition, or as soon as reasonably practicable if such production occurs thereafter. Nothing in this Order is intended or may be interpreted to narrow, expand, or otherwise affect the rights of the Parties or Third Parties to object to a subpoena. If the Non-Party production is not Bates-stamped, the Parties will meet and confer to agree upon a format for designating the documents with a unique Bates Number prefix.

d) **Documents Produced by Parties – Presumption of Authenticity.** In order to reduce the number of requests for admission, this Order establishes a rebuttable presumption that documents produced by the Parties are authentic, if said documents were either created or authored by the producing Party, or any of its employees, agents, or

1 contractors, so long as the employees', agents', or contractors' work was performed in  
2 connection with a project or assignment sponsored by the producing Party. No further  
3 evidence to establish authenticity need be provided. Nothing in this paragraph shall be  
4 deemed to waive any other evidentiary objection a party may have, including but not  
5 limited to hearsay, foundation/personal knowledge, or relevance.

- 6 e) **Re-productions.** Notwithstanding any provisions to the contrary, re-production of  
7 discrete sets of documents from another litigation, arbitration, government inquiry, or  
8 other matter may be re-produced in the same manner and form as originally produced  
9 in the other matter, provided however that a party will re-produce documents in a  
10 different format for good cause shown. This provision does not waive the right of a  
11 party to object to any requests for reproduction of production files from another  
12 litigation, arbitration, government inquiry, or other matter.
- 13 f) **Modification.** This ESI Order may be modified by a Stipulated Order of the Parties  
14 or by the Court for good cause shown.
- 15 g) **Good Faith.** The Parties will act in good faith as required by law and use these  
16 procedures to identify and reduce the potential for disputes.
- 17 h) **Continuing Obligations.** The Parties recognize that discovery shall be an iterative  
18 and cooperative process. The Parties will continue to meet and confer regarding any  
19 issues as reasonably necessary and appropriate. This Order does not address or resolve  
20 any objections to the Parties' respective discovery requests.
- 21 i) **Reservation of Rights.** The Parties agree that any topic not addressed herein is  
22 neither a waiver nor acknowledgement of agreement by either Party.

23 **IT IS SO STIPULATED**, through Counsel of Record.

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1 DATED: March 15, 2024

Respectfully submitted,

2 /s/ Lexi J. Hazam  
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**IT IS ORDERED** that the foregoing Agreement is approved.

Dated: March 18, 2024

  
\_\_\_\_\_  
MAGISTRATE JUDGE PETER H. KANG



## APPENDIX 1: PRODUCTION FORMAT

**1) Production Components.** Except as otherwise provided below, ESI must be produced in accordance with the following specifications:

- a) an ASCII delimited data file (.DAT) using standard delimiters;
- b) an image load file (.OPT) that can be loaded into commercially acceptable production software (*e.g.* Concordance);
- c) single page black-and-white TIFF images, or JPEG images when color is specified herein, or native files with single page placeholder TIFF images depending on the applicable production format for each type of file;
- d) and document level .TXT files for all documents containing extracted full text or OCR text.
- e) Family relationships between emails and their attachments, embedded files and their source document, and connected hardcopy documents will be maintained in production. Attachments should be consecutively produced with their parent.
- f) If a particular document warrants a different production format, the Parties will cooperate in good faith to arrange for a mutually acceptable production format.

**2) Production Media and Access Controls.** Productions must be encrypted and produced through secure electronic means, such as secure file sharing methods (*e.g.* FTP), or on CD, DVD, flash drive or external hard drive (“Production Media”). Each piece of Production Media must identify a production number corresponding to the production volume (*e.g.* “VOL001”). Each piece of Production Media must also identify: (a) the case caption; (b) the following label: “This media contains material subject to Court Ordered security measures”; (c) the Producing Party’s name; (d) the production date; (e) the Bates Number range of the materials contained on the Production Media.

Nothing in this ESI Order will preclude or impair any and all protections provided the Parties by any Protective Order(s) agreed and entered into by the Parties. Parties will use best efforts to avoid the unnecessary copying or transmittal of produced documents. If questions arise, the Parties will meet and confer to ensure security concerns are addressed prior to the exchange of

any documents.

**3) Data Load Files/Image Load Files.** Each TIFF in a production must be referenced in the corresponding image load file. The total number of documents referenced in a production's data load file should match the total number of designated document breaks in the image load file(s) in the production. The total number of pages referenced in a production's image load file should match the total number of TIFF files in the production. All images must be assigned a unique Bates number that is sequential within a given document and across the production sets. The Bates Numbers in the image load file must match the corresponding documents' beginning Bates numbers in the data load file. The total number of documents in a production should match the total number of records in the data load file. Load files must not vary in format or structure within a production, or from one production to another except by agreement of the Parties.

**4) Metadata Fields.** Each of the metadata and coding fields set forth below that can be extracted should be produced for each document, except that if the field contains privileged information, that privileged information may be redacted. However, to the extent that metadata does not exist, is not available for any documents produced, this provision shall not be read to require any Party to extract, capture, collect, manually populate, or produce such metadata, with the exception of the following: (a) BEGBATES, (b) ENDBATES, (c) BEGATTACH, (d) ENDATTACH, (e) PRODVOL, (f) ALL CUSTODIANS, (g) CONFIDENTIALITY, (h) REDACTIONS, (i) REDACTION TYPE, (j) HASHVALUE, (k) NATIVEFILEPATH, and (l) TEXTFILEPATH, which should be populated by the Party or the Party's vendor. The Parties will make reasonable efforts to ensure that metadata fields automatically extracted from the documents correspond directly to the information that exists in the original documents.

Field Name	Field Description
BEGBATES	Beginning Bates number for a particular document as stamped on the first production image for that document
ENDBATES	Ending Bates number as stamped on the last

Field Name	Field Description
	production image for a particular document
BEGATTACH	First production Bates number of the first document in a family
ENDATTACH	Last production Bates number of the last document in a family
ATTACHCOUNT	Number of attachments to an e-mail or embedded parent, as generated by commercially available discovery processing tools.
ATTACHNAMES	Names of each individual Attachment, separated by semicolons.
PRODVOL	Production volume
ALLCUSTODIANS	List of all custodians associated with Document, i.e. “Custodian” + “Other Custodian” values delimited by semicolon.
ALLFILEPATHS	All original path(s) to the individual source file(s) when available in the ordinary course of business to and processable by the parties and their ESI vendors of choice. Includes path up to and including internal path of containers.
CONFIDENTIALITY	Confidentiality designation assigned to the document consistent with the Stipulated Protective Order governing this Litigation
NATIVEFILEPATH	Native File Link (Native Files only)
TEXTFILEPATH	Path to extracted text/OCR file for the document
HASHVALUE	MD5 hash value of the document
DOCUMENT TYPE	Descriptor for the type of document: “E-document” for electronic documents not attached to e-mails; “E-mail” for all e-mails; “E-attachment” for files that were attachments to e-mails; and “Physical” for hard copy physical documents that have been scanned and converted to an electronic image.
AUTHOR	Any value populated in the Author field of the

Field Name	Field Description
	document properties
DOCDATE	Date the document was created according to filesystem information (format: MM/DD/YYYY)
DATELASTMODIFIED	Date when document was last modified according to filesystem information (format: MM/DD/YYYY)
LAST MODIFIED BY	Last person who modified (saved) a document, as generated by commercially available discovery processing tools.
TRACK CHANGES	Y if a document with track changes value, otherwise N or empty, if available separately from the HASHIDDENATA flag
COMMENTS	Y if a document with comments, otherwise N or empty, if available separately from the HASHIDDENATA flag
HASHIDDENATA	Y if a document with hidden content value, otherwise N or empty
FILENAME	Filename of an electronic document
TITLE	Any value populated in the Title field of the document properties
DOCEXT	File extension of document pulled from the document properties
FROM	The sender of the email
TO	All recipients that were included on the “To” line of the email
CC	All recipients that were included on the “CC” line of the email
BCC	All recipients that were included on the “BCC” line of the email
DATETIMERECEIVED	Date and time email was received (format: MM/DD/YYYY HH:MM)
DATETIMESENT	Date and time email was sent (format: MM/DD/YYYY HH:MM)

Field Name	Field Description
TIMEZONE	The timezone used to process the document
EMAILSUBJECT	Subject line of email pulled from the document properties
THREADID	If a threading tool is used for emails, the thread id generated by the threading tool.
REDACTION TYPE <sup>1</sup>	General category of redaction reason as agreed to by the parties. For example, PII, SCA, CODE, and/or PRIV. If more than one, separate reasons by semicolons.
REDACTIONS	Y if a document is redacted, otherwise N or empty

**5) TIFFs.** Unless excepted below, single page, black and white, Group IV TIFFs should be provided, at least 300 dots per inch (dpi) for all documents. Each TIFF image must be named according to a unique corresponding Bates number associated with the document. Each image must be branded according to the Bates number and the agreed upon confidentiality designation. Original document orientation should be maintained (i.e., portrait to portrait and landscape to landscape). Where the TIFF image is unreadable or has materially degraded the quality of the original, the Producing Party shall provide a higher quality TIFF image or the native or original file. In addition, the Parties shall take reasonable efforts to process word processing documents (*e.g.*, MS Word) with track changes and/or comments unhidden on the TIFF image.

**6) Color.** Word processing documents containing tracked changes shall be produced in color, as single-page, 300 dpi JPG images with JPG compression and a high quality setting as to not degrade the original image. The Producing Party shall comply with good faith by the Requesting Party to provide replacement color images for documents originally produced in black and white. A Party making such a request shall make the request by individual Bates

<sup>1</sup> The Parties will provide specific information on any privilege(s) asserted in their privilege logs, in an overlay, or the redaction boxes. The "Redaction Reason" field is informational only for redaction type and shall not in any way limit a party's right to assert attorney-client privilege, attorney-work product privilege, and/or any other applicable privilege or protection.

1 number(s) and shall limit requests made pursuant to this paragraph to a reasonable number of  
2 documents.

3           **7) Text Files.** A single multi-page text file must be provided for each document,  
4 and the filename should match its respective TIFF filename for the first page of that document.  
5 Extracted text shall be generated with commercially acceptable technology set to include all  
6 comments, revisions, tracked changes, speaker's notes and text from documents with comments  
7 or tracked changes, and hidden and very hidden worksheets, slides, columns and rows. When  
8 possible, the text of native files should be extracted directly from the native file. Parties will  
9 perform optical character recognition ("OCR") on foreign language documents using the  
10 appropriate settings for languages reasonably anticipated to be in the production following a  
11 meet and confer with the Requesting Party to identify those languages. Text files will not  
12 contain the redacted portions of the documents. A commercially acceptable technology for OCR  
13 should be used for all scanned, hard copy documents and for documents with redactions other  
14 than Excel files and other spreadsheets which shall be redacted in native format. Text extracted  
15 from emails should include the following header information where available: (1) the  
16 individuals to whom the communication was directed ("To"), (2) the author of the email  
17 communication ("From"), (3) who was copied and blind copied on such email ("CC" and  
18 "BCC"), (4) the subject line of the email ("RE" or "Subject"), and (5) the date and time of the  
19 email. To the extent the text extraction technology the Parties are using can be configured to  
20 include the text of any URLs or links, the Parties shall utilize that setting.

21           **8) Native files.** Spreadsheets (e.g. MS Excel), and un-redacted presentations (e.g.  
22 Microsoft PowerPoint,) will be produced in native format to the extent that they are produced in  
23 this Litigation, audio, video, and multi-media files will be produced in native format. The  
24 Parties will meet and confer on the production of other file types, such as proprietary files, etc.  
25 Native files will be produced with a link in the NATIVEFILEPATH field, along with extracted  
26 text (where extracted text is available) and applicable metadata fields set forth in paragraph 4  
27 above. A Bates numbered TIFF placeholder indicating that the document was provided in native  
28 format must accompany every native file. Where redaction makes production of native-format

1 files other than spreadsheets or presentations infeasible, the Parties will confer to determine a  
2 reasonably usable form for the production, but spreadsheets shall presumptively be redacted in  
3 native, and presentations presumptively redacted in image form, in these cases without the need  
4 for further conferring.

5           **9) Production Format for Hard Copy Documents.** Documents that exist in  
6 hardcopy will be scanned to \*.tiff image format and produced in accordance with the  
7 specifications set forth herein. Hard copy documents that are not text-searchable shall be made  
8 searchable by OCR prior to production. In scanning paper documents, distinct documents  
9 should not be merged into a single record, and single documents should not be split into  
10 multiple records (i.e., paper documents should be logically unitized). In the case of an organized  
11 compilation of separate documents (for example, a binder containing several separate  
12 documents behind numbered tabs), the document behind each tab should be scanned separately,  
13 but the relationship among the documents in the compilation should be reflected in the proper  
14 coding of the beginning and ending document and attachment fields. The Parties will make their  
15 best efforts to unitize the documents correctly. If relevant documents are maintained in a file,  
16 folder, envelope, binder, notebook or similar container used to store documents, all contents  
17 therein shall be reviewed for production and privilege. Document pages which have affixed  
18 notes, such as Post-it notes, should be imaged with and without the note attached.

19           **10) Confidentiality Designation.** All images will be stamped with the appropriate  
20 confidentiality designations in accordance with the Stipulated Protective Order entered in this  
21 Litigation. Each document produced in native format will have its confidentiality designation  
22 identified in the filename of the native file and indicated on its corresponding TIFF placeholder.

23           **11) Bates Numbering.** Bates numbering should be a consistent length across the  
24 production, contain no special characters, and be numerically sequential within a given  
25 document. If a Bates number or set of Bates numbers is skipped, the skipped number or set of  
26 numbers should be noted with a placeholder. Attachments to documents will be assigned Bates  
27 numbers that directly follow the Bates numbers on the documents to which they were attached.  
28



1 In addition, wherever possible, each image will have its assigned Bates number electronically  
2 “burned” onto the image.

3 **12) Databases and Other Structured Data.** To the extent that responsive  
4 information is stored in a database, or database management system, or proprietary system or  
5 application which has is directed to data storage as one of its primary functions, the Producing  
6 Party will identify the database and platform to the Requesting Party. The Producing Party shall  
7 produce exports and reports about such responsive information stored in such database, where  
8 such exports and reports shall be in a reasonably usable form, and information may be produced  
9 in CSV format, tab-delimited text format, Microsoft Excel format, or Microsoft Access format.  
10 If there are future disputes over the production of information from a database, the Parties shall  
11 meet and confer in good faith in an attempt to reach any further agreements (if needed) on the  
12 data to be produced and the format and scope of the production. The Producing Party will  
13 provide reasonable amounts of information about the databases to facilitate that discussion.

14 **13) Hyperlinks.** Document(s) and/or folder(s) of documents that are hyperlinked  
15 inside a responsive document (including hyperlinked inside emails) within a Producing Party’s  
16 custody, possession, or control, do not need to be produced in the first instance as part of the  
17 same family group as the Document residing at the location to which that hyperlink points. If  
18 there are particular hyperlinks identified by the Requesting Party in produced documents, the  
19 Requesting Party may submit a list of hyperlinks to a particular Producing Party for potentially  
20 relevant documents by identifying the Bates number and URL or link text for each requested  
21 link to the Producing Party, and the Producing Party will engage in reasonable efforts to locate  
22 the hyperlinked document at that location and either identify it by Bates number or provide any  
23 responsive, non-produced, and non-privileged documents. The number of hyperlinks a  
24 Requesting Party may identify to a Producing Party shall not be excessive and shall be  
25 reasonable, proportional to the needs of the case, and not unduly burdensome.

26 **14) Embedded Objects.** The Parties agree non-substantive embedded objects,  
27 including, but not limited to, logos, icons, emoticons, and footers, may be culled from a  
28 document set (but not a document) and need not be produced as separate documents by a



Producing Party (i.e., such embedded objects will be produced within the document itself, rather than as separate documents). Embedded files, except for images (including but not limited to, logos, icons, emoticons), are to be produced as family groups. Embedded files should be assigned Bates numbers that directly follow the Bates numbers on the documents within which they are embedded.

**15) Production of Family Groups and Relationships.** If any member of a family group is produced, all members of that group must also be produced or else logged as privileged, and no such member shall be withheld from production as a duplicate.

**16) Dynamic Fields.** Documents with dynamic fields for file names, dates, and times will be imaged to show the field code (e.g., “[FILENAME]”) where possible, rather than the values for such fields existing at the time the file is processed.

**17) Time Zone.** The time zone used to process a document, including its metadata, shall be disclosed in the TIMEZONE metadata field consistent with Appendix 1, and shall be standardized for each Defendant across productions.

**18) Redactions.**

a) A Producing Party may redact (i) information subject to the attorney client privilege or the work product protection (PRIV); (ii) information that cannot be disclosed pursuant to the Stored Communications Act (SCA); (iii) source code subject to separate agreement applicable to production of source code (CODE); (iv) personal identifying information (PII) including phone numbers, personal addresses, personal email addresses, the month and day of birth, driver’s license numbers, and other PII agreed to by the Parties (for example, the Parties shall complete their meet and confer on whether or not to redact users’ ages and years of birth). In any event, there shall be no redaction of illnesses, injuries, and medical diagnoses. To the extent a document or pleading contains PII, the Parties shall designate such documents at the appropriate Confidentiality level under the Protective Order and shall comply with Fed. R. Civ. P. 5.2 with regard to filings with the Court.

b) No redactions for relevance may be made within a produced document or ESI item. If, during the course of discovery, the Parties identify other kinds of information that any

1 Party has a reasonable basis for redacting, the Parties will meet and confer on a case-by-case  
2 basis regarding that information before such redactions are made. If the Parties cannot agree,  
3 they may seek resolution from the Court.

4 c) The Producing Party will indicate, on the face of the redaction, the asserted  
5 reason(s) for the redaction (PII, SCA, CODE, and/or PRIV) and the REDACTION TYPE  
6 metadata field shall indicate that the document contains redactions and the reason(s) for the  
7 redaction.

8 d) Notwithstanding the foregoing, this provision shall not be read to prohibit  
9 redactions permitted under any applicable U.S. law or Protective Order.

10 e) Where a responsive document contains both redacted and non-redacted content,  
11 the Parties shall produce the non-redacted portions of the document and the OCR text  
12 corresponding to the non-redacted portions.

13 f) Native Redactions. Spreadsheet files requiring redaction, including without  
14 limitation Microsoft Excel files, shall be redacted and produced natively (unless the Parties  
15 agree to production in some other format). In addition, a Producing Party may natively redact  
16 other files that cannot be properly imaged for redaction.

17 g) All images of redacted files shall be processed to show all comments, revision  
18 marks, speaker notes, marks made in track changes, or other user-entered data which are visible  
19 in a normal view of the document in its native application, unless such material is redacted and  
20 marked as redacted in accordance with this section. Where possible, any occurrences of  
21 date/time auto-field items, including in headers and footers, will be removed and replaced with  
22 the term AUTODATE to prevent the current date from being printed. Email header information  
23 (e.g., date and/or subject line) shall not be redacted unless it is independently privileged. The  
24 Parties shall honor reasonable requests for the production of particular redacted documents in  
25 other formats where the image is not reasonably usable.

26 h) Color. Redacted versions of documents that would have been produced in color  
27 in their un-redacted form shall be produced in color as detailed herein.  
28

1           **19) Exception Files.** The Parties will use reasonable efforts to address processing  
2 exceptions.

3           **20) Mobile and Handheld Device Documents and Data.** If responsive and unique  
4 data that can reasonably be extracted and produced in the formats described herein is identified  
5 on a mobile or handheld device, that data shall be produced in accordance with the generic  
6 provisions of this protocol. To the extent that responsive data identified on a mobile or handheld  
7 device is not susceptible to normal production protocols, the Parties will meet and confer to  
8 address the identification, production, and production format of any responsive documents and  
9 data contained on any mobile or handheld device.  
10